

Overlooked issues & best lessons



We asked Legal Eagles what issues they think more people in franchising should know about. Read what they had to say.

Lease Language

“Key points to negotiate in a retail lease. Retail leases are extremely important documents for any retail franchisee. A good retail franchisor should have a strong real estate team consisting of a national real estate firm to help locate good local realtors and ensure that the franchisor’s requirements for the space are met, and an experienced retail lease law firm that can work with the franchisees in negotiating a strong lease. For example, one topic that is often overlooked is the requirement for assigning the lease. Many franchisors have their own assignment requirements, but what about making sure that the personal guarantee is released upon assignment? Many franchisors are not going to be concerned about that, but every franchisee should be. I am sure that a franchisee would not want to be guaranteeing the financial obligations of the buyer of their business. Leases are extraordinarily negotiable documents and having a strong lease attorney to negotiate the legal matters in the lease can often make or break a franchisee’s business.”

—Nancy Lanard, *Lanard and Associates*

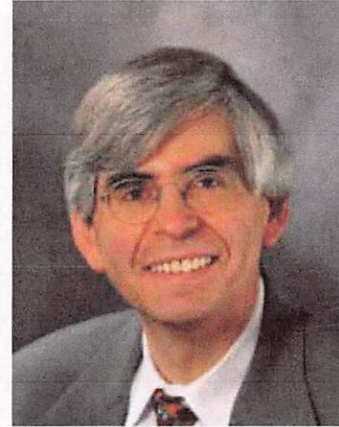
Social Media

“The power of Facebook on franchise lead generations. Through my clients, I continued to be amazed how brands are innovating to use social media to identify qualified franchise prospects.”

—Ritchie Taylor,
Manning, Fulton & Skinner



▲ Lloyd Hoffer



▲ Barry Heller



▲ Fredric Cohen

Human Resources

“The franchising world has now been impacted by the application of employment issues. More folks in franchising need to be aware of the risk of ignoring the types of practices that expose the franchisor to employment-type claims and remedies.”

—Barry Heller, *DLA Piper*

We also asked our 2020 Legal Eagles, what are your best lessons of late? Several obliged.

FDDs

“Picking up the phone and having a 10-minute call with an examiner can prevent wasted time and save money for the client. Recently, in response to an examiner comment on Item 19, we were preparing to edit a table and make amendment filings in several registration states. A brief call to the examiner and some negotiation resulted in the comment being withdrawn.”

—Dan Matthews, *Drumm Law*

Tech & Litigation

“Mastery of and use of technology in the course of litigation is necessary, in the area of mass document files. This franchising scenario as much as I learned it by having to deal with mass document file and through technological developments in litigation and seeing what techniques often applying.”

—Lloyd Hoffer

General Wisdom

“The faster you can figure out what the other side really wants, the quicker you can get to a solution.”

—Deborah Coldwell, *Hay*

“An old lesson that revisits (and recently): A law licer a license to be an ass. And the most lethal of legal weapons is Humility and understatement.”

—Fredric Cohen

“Managing disclosure. Not a new issue, but still a major problem we